DOCUMENT RESUME

ED 442 230 EC 307 866

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TITLE	Negotiation. [Revised].
INSTITUTION	Syracuse Univ., NY. Center on Human Policy.
SPONS AGENCY	National Inst. on Disability and Rehabilitation Research (ED/OSERS), Washington, DC.
PUB DATE	2000-00-00
NOTE	12p.; Partial support for the preparation of this version provided by the National Resource Center on Supported Living and Choice, Syracuse University. Paper originally prepared in 1979 by the DD Rights Center of the Mental Health Law Project and the Center on Human Policy.
CONTRACT	H133A990001
AVAILABLE FROM	Center on Human Policy, Syracuse University, 805 South Crouse Ave., Syracuse, NY 13244-2280. For full text: http://soeweb.syr.edu/thechp.
PUB TYPE	Guides - Non-Classroom (055)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Adults; *Child Advocacy; Children; *Conflict Resolution; Decision Making; *Disabilities; *Family School Relationship; Interpersonal Communication; *Parent Teacher Conferences; *Problem Solving
IDENTIFIERS	*Negotiation Processes

ABSTRACT

This paper is designed to enable disability activists, parents, and advocates to negotiate effectively. It begins by describing negotiations for short-term or long-term changes and different approaches for negotiating. Steps for preparing for negotiation are listed, along with strategies: (1) control the negotiation session; (2) never negotiate when you are out-numbered; (3) select a spokesperson; (4) present a united front; (5) know and cite the facts; (6) know how people resist change; (7) be assertive, but don't attack people personally; (8) avoid being put on the defensive; (9) use anger strategically; (10) create a record; (11) latch onto any concessions; (12) establish firm timetables and standards of performance; (13) don't do work for the other side; (14) know what will and will not be accepted; and (15) use strategies for deadlocks such as walk-outs, or threats of media coverage or litigation. Follow-up steps for negotiation are also provided. (CR)

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NEGOTIATION

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This paper was originally prepared in 1979 by the DD Rights Center of the Mental Health Law Project and the Center on Human Policy, Syracuse, NY, under HEW Office of Human Development Grant of National Significance #54P71332/3-01. Douglas Biklen and Lesley Lannan assisted in the preparation of the original paper. This updated version of this paper was prepared in 2000. Partial support for the preparation of this version was provided by the National Resource Center on Supported Living and Choice, Center on Human Policy, Syracuse University. The National Resource Center is funded by the National Institute on Disability and Rehabilitation Research, U.S. Department of Education through Contract No. H133A990001. The opinions expressed herein are solely those of the author, and no endorsement by any federal agency should be inferred.

Any time two groups with conflicting interests meet to discuss the issues between them, they are negotiating. Sometimes the negotiations are explicit; that is, the groups consciously draw on negotiation strategies. Usually they are not. Too often, those who advocate for change enter into negotiations with only a vague sense of what they hope to accomplish and how to accomplish it. This paper is designed to enable disability activists, parents, and advocates to negotiate effectively.

Short term--Long term

You can use negotiations to work for either short term or long term change. Short term change usually means helping one or a small number of people without radically altering the conditions that create the problems. Some examples of short term, limited change are gaining access to previously undisclosed information or records; obtaining entry to an institution for monitoring purposes; advocating for a ramp or arranging for accommodations for an individual; or helping a person obtain the services or personal assistance needed to live in the community. Each of these short term changes represents a challenge to the usual policies and practices of many service systems, but they do not represent broad sweeping reforms.

Long term change involves confronting systemic problems. Architectural barriers, institutional abuse, segregation--all are symptomatic of underlying problems in societal attitudes and human services. In advocating for long term change, negotiations should be used together with a larger set of strategies mapped out beforehand. For instance, negotiating may be used along with media coverage, investigations, public forums, letter writing campaigns, formal complaints to oversight agencies, and litigation.

Approaches

Your approach should be determined by the intransigence, or willingness to change, of the opposing side. As Des Jardins (1971) notes, "If a bureaucrat gives you what you are entitled to, he is your friend. If he doesn't, he is your enemy."

You will sometimes need to take a "hard line" approach. When the opposing side actively resists change, you will have to be confrontative. Often a conciliatory approach will be most effective. For instance, when the opposition **demonstrates** willingness to change **through its actions**, you can afford to adopt a softer approach. But do not abandon your goals for the sake of getting along with bureaucrats and officials. As Saul Alinsky (1972) noted, "Reconciliation means when one side gets the power and the other side gets reconciled to it, then we have reconciliation."

Preparation

1. Know when to negotiate. Negotiations should be held **prior** to more dramatic or public actions, such as press conferences, demonstrations, or litigation, in order to provide agencies with an opportunity to meet your demands before you "go public." You should enter into negotiations when informal approaches fail; for example, when a request for services has been denied.
2. Obtain the backing of a disability or family group or a coalition of groups.
3. Setting up the negotiation. Request a meeting in writing. Your letter should explain the general purpose of the meeting and specify which agency representatives should attend. Don't give too much information on your position beforehand. Save your demands and documentation for the negotiation session. Follow up the letter with a

phone call to confirm the arrangements for the meeting. Be sure to find out which agency representatives will attend.

4. Target. You should only negotiate with persons who have the authority to make decisions.
5. What if they refuse to meet? First, appeal to their superiors; for example, state officials when local agency representatives balk at meeting. Second, go public: hold a press conference or organize a demonstration.
6. Form a negotiating team. Any negotiating team should include at least one person with a disability or a parent, someone knowledgeable about due process and appeals procedures, and an "expert" in substantive issues (for example, a person who knows about consumer-directed personal assistance or architectural accessibility).
7. Prepare for the negotiation:
   - Map out a set of strategies. What will you do if the negotiations do not meet with immediate success?
   - Hold planning sessions. Identify the issues, formulate your demands and fall-back positions, collect the facts, anticipate the negotiation session.
   - Role-play the negotiation session.

Strategies for Effective Negotiation

1. Control the negotiation session. **You** should define the issues.
   - Set the agenda. You might even come with a written list of agenda items.
   - Choose your seating carefully. Don't let an agency official hide behind a desk or sit at the head of a table. This gives control over the meeting.

- Refer to them as they refer to you. Titles carry authority. Don't let them call you by your first name if they refer to themselves by their titles (Mrs., Mr., Ms., Dr.).
- Bring your documents, such as letters, to the session.
- Chair the meeting. Review the circumstances or case leading to the meeting, the law, and other facts.
- Present your demands or positions clearly.

2. Numbers. Never negotiate when you are out-numbered. **Leave** if they try to overwhelm you with sheer numbers of people.
3. Select a spokesperson. While all members of the negotiating team should participate in the session, there should only be one person able to make compromises.
4. Present a united front. Make sure that members of the team do not contradict each other. The opposition will try to use disagreements among your group to shift attention from their responsibilities.
5. Know and cite the facts. Pay attention to officials' defenses or responses. Challenge them on the facts. Ask for specifics.
   - Know the agency and its services (budget, types of programs, etc.).
   - Know the law and legal precedents.
   - Be familiar with model programs elsewhere.
   - Know their philosophy. Point to discrepancies between philosophy and actual practices. Hold them to what they say.
6. Know how people resist change. Anticipate "cool outs" and have your responses ready. Here are some of the more common "cool outs" used to resist change:

- Double talk. "I agree with your philosophy, but..." (Challenge them to act on their beliefs.)
- Passing the buck. "I agree with you, but I'm not in a position to make that decision." (Passing the buck is an age old tactic used to maintain the status quo. Force them to accept responsibility.)
- The money game. "We'd like to do what you ask, but we just don't have the money." (There usually is enough money; it's a matter of priorities. Further, a lack of money does not excuse violations of people's rights.)
- Expert knows best. "Most psychiatrists say that..." or "According to research..." (Most policy issues involve basic values and beliefs and cannot be solved through science or research.)
- Cover up. "We have one of the best programs in the country." (Know the facts about program elsewhere.)
- Blaming the victim. "These people are too disabled to live in the community." (Confront them on their backward attitudes. Don't let them blame the person for the system's failures.)
- Turning the tables. "You're too emotional," or "You just have to be patient." (Don't feel guilty about working for change. Why not feel emotional and impatient about people's rights?)

7. Be assertive, but don't attack people personally. Distinctions between "good" and "bad" or "friendly" and "unfriendly" officials or professionals are useless in a negotiating session. What is important is whether they yield to your demands. Don't

be afraid to challenge "nice" people. Don't hesitate to be conciliatory with "unfriendly" bureaucrats who are forced to accept your position.

8. Avoid being put on the defensive. Don't beg; services should be available as a matter of right, not charity. Don't feel guilty; you are only asking for that to which people are entitled. Refuse to discuss your own past actions and other irrelevant issues (e.g., "That's not the issue…").
9. Use anger strategically. Don't express anger simply to vent your frustrations. Show anger to make a point or to break a deadlock.
10. Create a record. One of the members of **your** group should act as a note taker. Don't hesitate to ask a bureaucrat to repeat something "for the record." This will put them on notice that you mean serious business.
11. Latch on to any concessions. Refer to any concession, however tentative, as a firm agreement on their part. Don't let them back off. Chances are the opposition is not as organized as you are. Its members may not agree with each other. Treat the most conciliatory member as the spokesperson and his or her statements as binding.
12. Establish firm timetables and standards of performance. Don't accept vague promises and empty statements. Ask them to be specific and to set firm deadlines.
13. Don't do their work for them. Don't agree to write grant proposals for them or to establish programs; that's their job.
14. Know what you will and will not accept.
    - Prior to entering the negotiations, set maximum and minimum goals where the minimum is the very least with which you would be satisfied. Never compromise on the minimum.

- Make high demands and few concessions.
- Never settle for less than 100% of your demands. But don't turn down less. Just don't settle for it. Keep the pressure up until you get the full 100%.
- Never compromise without any thought of future consequences.
- If you are not sure whether or not a proposed compromise is satisfactory, don't be forced into a premature agreement. Tell them you need time to think about it.

15. What if the negotiation session deadlocks?
    - Let them know you don't think you're getting anywhere.
    - Walk out. A carefully orchestrated "walk out" may break the deadlock and force concessions.
    - Threats. Don't' hesitate to threaten other action, such as media coverage or litigation. "The threat is usually more terrifying than the thing itself" (Alinsky, 1972). Subtle threats are probably the most effective since they allow an official to "save face"; for example, "Look, the press is really interested in these kinds of issues," or "We don't want to have to go to court to resolve this issue."

Follow-Up

1. Write a letter to the agency summarizing the major points discussed during the negotiating session. The letter should highlight major agreements reached during the session, agreed upon timetables and standards for performance, and, if the session was unsuccessful, disagreements and glaring examples of agency unresponsiveness. Copies of the letter should be sent to agency "higher-ups" as well as your own allies. The letter should clearly state that if the official's recollection of the meeting differs

from your record (based on carefully recorded notes or a tape recording), he or she should write you immediately. A certified letter carries an official and formal aura.

2. Successful negotiations. If you win your objectives through negotiation, hold a press conference and send out an "action bulletin" to your constituency announcing a "major policy breakthrough." Your negotiations can serve as a precedent for other groups.
3. Further negotiations. Continue to negotiate only as long as you are making significant progress. Don't waste your time negotiating with intransigent officials. When negotiations seem to drag on and on, with no end in sight, tell the officials that you want a firm decision within a specific time period.
4. Buck-passing. It is sometimes effective to negotiate around an issue with representatives of more than one agency. When you find officials continuing to engage in passing the buck, call a meeting among all of the buck-passers to locate responsibility for providing services.
5. Unsuccessful negotiations. Long term change is seldom accomplished through negotiations alone. Do not be discouraged if negotiations do not result in immediate systemic victories. By increasing your understanding of the system and creating a record of attempts to resolve issues on a face-to-face basis, negotiating paves the way for other strategies: press coverage, lobbying, appeals to other authorities, litigation, public forums, and others.

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